

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXIS BAUTISTA,

Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO, SAN
FRANCISCO POLICE DEPARTMENT, SAN
FRANCISCO POLICE OFFICER WILLIAMS,
SAN FRANCISCO POLICE SERGEANT
ESPINOZA, and SAN FRANCISCO POLICE
OFFICER LUM,

Defendants.

No. C 07-5434 CW

ORDER DISMISSING CASE
FOR FAILURE TO
PROSECUTE

On May 2, 2008, the Court entered an order granting Plaintiff Alexis Bautista's counsel's unopposed motion to withdraw. In that order, the Court instructed Plaintiff that she had until May 22, 2008 to provide her initial disclosures and responses to Defendants' interrogatories. The Court warned Plaintiff that if she failed to comply with the Court's order, her case might be dismissed for failure to prosecute. In addition, the Court scheduled a case management conference for June 24, 2008, and instructed Plaintiff that if she intended to pursue this case, she

1 must appear at the case management conference in person or through
2 new counsel. The Court advised Plaintiff that if she failed to
3 appear, the case would be dismissed for failure to prosecute.

4 On June 10, 2008, after the deadline for Plaintiff to provide
5 her initial disclosures and responses to Defendants'
6 interrogatories had passed, Plaintiff filed a document entitled
7 motion for an enlargement of time to procure new counsel. On June
8 19, 2008, the Court entered an order stating:

9 Plaintiff shall have until July 21, 2008, to provide
10 initial disclosures and discovery responses. If
11 Plaintiff does not comply, her case may be dismissed
12 for failure to prosecute. The case management
13 conference, previously set for June 24, 2008, is
14 continued to August 26, 2008, at 2:00 p.m. If
15 Plaintiff intends to pursue this case, she must appear
16 at the case management conference in person or through
17 new counsel. If Plaintiff fails to appear, the case
18 will be dismissed for failure to prosecute. If
19 Plaintiff is unable to find an attorney to represent
20 her, she will have to represent herself unless and
21 until she finds one, or dismiss her case.

22 Docket No. 39.

23 On July 21, 2008, the new deadline for Plaintiff's initial
24 disclosures and discovery responses, Plaintiff wrote a letter to
25 the Court seeking additional time. The Court entered an order
26 granting an extension of the deadline to August 18, 2008. On
27 August 19, 2008, Defendants filed a case management statement,
28 which included the following information:

Plaintiff has not responded to written discovery. The Court issued an order setting several deadlines for her to do so. Plaintiff has missed all such deadlines and still has not responded. Counsel just received a letter from Plaintiff to the Court indicating that she has not received Defendants' discovery requests. Defendants have provided copies to Plaintiff several times, in addition to having served them in January on Plaintiff's former counsel. Moreover, Plaintiff does

1 not need anything from Defendants in order to complete
2 her initial disclosures, yet she still has not done so.
3 Docket No. 42 at 4. In addition, Defendants state that Plaintiff
4 did not appear for her scheduled deposition.

5 On August 19, 2008, the Court also received a letter from
6 Plaintiff, dated August 15, 2008. In that letter, Plaintiff states
7 that she has received only portions of Defendants' discovery
8 requests and seeks a further extension of time. However,
9 Defendants have stated that, in January, they served those requests
10 on Plaintiff's former counsel and, since counsel's withdrawal, they
11 have provided to Plaintiff multiple copies of the requests.
12 Moreover, after the Court granted Plaintiff's former counsel's
13 motion to withdraw, former counsel filed proof that he served on
14 Plaintiff a notice of his withdrawal with guidance on upcoming
15 deadlines in the case. Docket No. 31. Former counsel attached to
16 that notice a copy Defendants' discovery requests and advised
17 Plaintiff that her case would be dismissed for failure to prosecute
18 if she did not respond to those requests. Id.

19 Plaintiff has failed to comply with the Court's orders despite
20 being granted multiple extensions of time. Accordingly, and good
21 cause appearing therefor, the Court dismisses the case without
22 prejudice for failure to prosecute. The Clerk shall enter judgment
23 and close the file.

24 IT IS SO ORDERED.

25 Dated: 8/20/08



26 CLAUDIA WILKEN
27 United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

BAUTISTA et al,

Case Number: CV07-05434 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

CITY AND COUNTY OF SAN FRANCISCO et
al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 20, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Alexis Bautista
1409 Saint Kitts Lane
Foster City, CA 94404

Scott David Wiener
City and County of San Francisco
1390 Market Street
Fox Plaza, 6th Floor
San Francisco, CA 94102-5408

Dated: August 20, 2008

Richard W. Wiekling, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California